

January 11, 2007

TO: City of Lincoln Personnel Board Members

SUBJECT: Personnel Board Meeting
Thursday, January 18, 2007
8:30 a.m., Council Chambers
County-City Building

NOTE: SPECIAL START TIME

A G E N D A

ITEM 1: Request to change the title of the following classification:

<u>CLASS CODE</u>	<u>CURRENT CLASS TITLE</u>	<u>PROPOSED CLASS TITLE</u>	
3138	Police Property & Evidence Supervisor	Police Property & Evidence Manager	(C27)

ITEM 2: Request for appeal hearing – John Huff — Lincoln Fire & Rescue.

ITEM 3: Miscellaneous Discussion.

PC: Joan Ross, City Clerk
James Zalewski
John Huff
Mayor Seng
Tom Casady
Mike Thew

POLICE PROPERTY AND EVIDENCE ~~SUPERVISOR~~ MANAGER

NATURE OF WORK

This is responsible work supervising and coordinating the activities of the property and evidence section of the Police Department. This is a civilian position.

Work involves responsibility for supervising and coordinating the activities of the property and evidence section of the Police Department including the purchase, receipt and storage of supplies, equipment, and property. Work also involves maintaining control of police evidence, preparing records of articles and valuables received including description of article, name of owner, name of police officer from whom received and reason for retention; issuing property being retained as evidence to officer at the time of trial upon receipt of authorization; releasing lost or stolen property to owner upon proof of ownership; and planning, developing and implementing methods of operation as well as disposing of unwanted articles, supplies, and related property and evidence. An employee in this class is expected to exercise considerable independent judgment and personal initiative within the framework of departmental policies and procedures, and legal guidelines and restrictions. Supervision is received from an administrative superior with work being reviewed in the form of reports, conferences, and effectiveness of property and evidence control. Supervision is exercised over subordinate support staff.

EXAMPLES OF WORK PERFORMED

Plans, develops and implements methods for the retention and disposal of property and evidence held by the Police Department; researches and evaluates programs that improve effectiveness in handling police property, supplies and evidence; analyzes data relating to those areas to provide a modern, innovative police property and evidence system.

Coordinates police auctions for unclaimed property and bicycles and determines what will be sold at such auctions.

Supervises the disposal and/or auction of abandoned vehicles towed by the Police Department.

Supervises the purchase of supplies and equipment within City purchasing guidelines.

Supervises the repair and maintenance of Police equipment.

Performs related work as required.

DESIRABLE KNOWLEDGES, ABILITIES AND SKILLS

Considerable knowledge of proper procedures in the handling of evidence for laboratory testing and for use in criminal proceedings.

3138 POLICE PROPERTY AND EVIDENCE-SUPERVISOR
_____MANAGER

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Considerable knowledge of approved methods for maintaining accurate records in handling police property, supplies and evidence.

Considerable knowledge of approved methods and practices in purchasing equipment and supplies for police use.

Knowledge of court proceedings, rules of evidence and municipal and State laws governing the confiscation and release of evidence.

Ability to plan, organize and assign the work of subordinates engaged in activities pertaining to the operation of the property and evidence section of the Police Department.

Ability to communicate effectively both orally and in writing.

Ability to establish and maintain effective working relationships with law enforcement officials, co-workers, the general public and legal professionals.

DESIRABLE TRAINING AND EXPERIENCE

Graduation from an accredited four-year college or university with major course work in criminal justice, the natural sciences or related field plus considerable experience in a law enforcement setting in property, supply and evidence control in a responsible supervisory capacity.

MINIMUM QUALIFICATIONS

Graduation from a senior high school or equivalent plus experience in a law enforcement setting in property, supply, and evidence control in a responsible supervisory capacity; or any equivalent combination of training and experience which provides the desirable knowledge, abilities and skills.

Approved by: _____
Personnel Director

Department Head

7/76

Revised 8/951/07

PS3138

DEMARS GORDON
OLSON • ZALEWSKI

LAW FIRM

CITY - COUNTY PERSONNEL
2006 DEC 20 PM 3 25

Hand Delivered

December 20, 2006

Mr. Don Taute
Personnel Director
City of Lincoln
555 So. 10th Street
Lincoln, NE 68508

RE: John Huff Termination Decision

Dear Don:

I am writing to you as the City of Lincoln Personnel Director. My client, John Huff, wishes to appeal the suspension and termination decision, which was outlined in the letter he received dated December 15, 2006 signed by Mayor Coleen Seng. Mr. Huff wishes to appeal to the Board all aspects of this decision, and the process that was used to reach this decision. He requests back pay, reinstatement to his position as Assistant Fire Chief, restoration of all benefits, and payment of all attorneys fees expended in this matter.

If you desire any further specification, or any different form of information on this appeal, please let me know. We request that this appeal be placed for a hearing on the January agenda of the City Personnel Board meeting. I am also asking you to send me the most current Rules and Regulations for City Personnel Board Hearings.

Please call if you have any further questions.

Sincerely,



James C. Zalewski

JCZ:sks

cc: Mr. John Huff



CITY OF LINCOLN NEBRASKA

MAYOR COLEEN J. SENG

lincoln.ne.gov

Office of the Mayor
555 South 10th Street
Suite 208
Lincoln, Nebraska 68508
402-441-7511
fax: 402-441-7120
mayor@ci.lincoln.ne.us

December 15, 2006

John C. Huff
505 Pier 2
Lincoln, NE 68528

RE: Employment Status

Dear Mr. Huff:

A pre-disciplinary meeting was held November 15, 2006, at which we discussed your involvement and actions relating to the City's purchase of seven new custom-built fire pumper apparatus from EDM Corporation pursuant to City of Lincoln Specification Number 04-318. You attended the pre-disciplinary meeting with your attorney, James Zalewski. Also in attendance were City Attorney Dana Roper, Personnel Director Don Taute, and Chief of Staff Mark Bowen.

Prior to the hearing, the City conducted a thorough investigation into all aspects of the fire apparatus purchase and those portions relating to you were set forth in the pre-disciplinary hearing. You were given an opportunity to respond to the City's concerns based on the findings of the investigation with respect to your action/inaction during the purchase/acceptance of the fire apparatus. In determining whether and to what extent discipline should be imposed, I have fully considered your explanations and the information, both written and oral, you provided at the pre-disciplinary hearing.

After due consideration of all the material in this matter, and my deliberation regarding your explanations, it is my conclusion that it is in the best interests of the City that your employment as the Assistant Chief of Support Services for the City of Lincoln Fire and Rescue Department be terminated. Therefore, pursuant to Lincoln Municipal Code Section 2.76.465, you are hereby suspended without pay for ten working days beginning December 18, 2006 and ending January 2, 2007. Your effective date of termination shall be January 3, 2007. Please be advised that you have the right to appeal this decision, in writing, to the Personnel Board, which appeal must be submitted to the Personnel Director no later than ten working days after the effective date of termination. For purposes of this calculation, a working day is Monday through Friday, excepting any holidays as enumerated in Section 2.76.370 of the Lincoln Municipal Code.

The following findings set forth the basis for my decision to terminate your employment:

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1. Your position as Assistant Chief of Support Services for Lincoln Fire and Rescue is a position of trust, leadership, and responsibility. Such a position requires the exercise of initiative and sound independent judgment. Your actions with respect to the fire apparatus purchase/acceptance failed to satisfy those requirements.
2. A major component of the position Assistant Chief of Support Services for Lincoln Fire and Rescue is the oversight and management of the Maintenance Division and safety programs of the department. In fact, you had the overall responsibility for that division. In this capacity, you knew or should have known that the City's fire pumper fleet was in serious need of replacement in order to ensure the continued safety of our personnel and citizenry. Ultimately, you failed to take the necessary action to ensure that the fleet was replaced in a manner consistent with the City's needs and legal requirements. Specifically:
 - a. As Assistant Chief, you are expected to have extensive knowledge of Federal and State laws and City ordinances, including the procurement process. You failed to adhere to the City's policies relating to the procurement of and contracting for goods and services. This failure was either willful or out of ignorance of the process – either way, such a gross failure on a project of this scope is inexcusable from a person of your longevity with the City and your high level of responsibility in your department. The failure appears willful in light of the fact that when you choose to, you seem able to comply with applicable City policy regarding procurement. For example, you prepared a memo dated February 18, 2005 summarizing the pre-build meeting and recommendations regarding changes to the fire apparatus specifications. Further, you prepared justifications for the items adopted in Change Order Number 1, establishing that you were well versed in the City's policies regarding the process to be used to adopt a change order and other authorized changes to a City contract.
 - b. Despite your obvious understanding of the City's contract/change order process, you signed off on factory order detail sheets in June 2005 without authority and without first ensuring that such changes were reflected in a change order or that the order detail sheets, as changed, matched City specifications. Again, such a lapse is either willful or inexcusably neglectful. Your conduct in this instance was similar to at least two prior incidents in which either you or those under your supervision signed contracts, purportedly on behalf of the City of Lincoln/Lincoln Fire and

Rescue, without authority to so sign. In both instances you were made well aware of the breach by the Law Department due to the City becoming involved in litigation due to such rogue signings. You were reminded in no uncertain terms, in both instances, that the only person with the authority to execute contracts or make changes thereto is the Mayor. You saw firsthand the effects on the City of unauthorized persons signing as though on behalf of the City. It is thus difficult for me to believe that you could have thought you had authority to sign order detail sheets/change orders involved in the fire pumper purchase. Doing so violated the letter and spirit of City policies, ordinances, and the Charter, as well State statute (see Neb. Rev. Stat. section 15-201 (5); Lincoln Charter Article IV Section 12 (5) and Article VII; and Section 2.06.010 of the Lincoln Municipal Code.

- c. You knew or should have known that specifications for new apparatus were crafted by your subordinates, which specifications called for particular structural and safety components for any new pumper to be purchased under such specifications. In fact, you directly supervise the primary drafter of such specifications, Deputy Chief of Maintenance Dennis Klein. Drafts of those specifications were shared with you numerous times prior to any bid award.
- d. You knew or should have known that the purchase of the seven new fire apparatus would be an extremely large expenditure for the City and would be a highly visible and high profile acquisition. It proved as much very early on in the process when the first set of bids were rejected based on concerns that the specifications were not met by the proposals, particularly with regard to the number of frame crossmembers. You knew or should have known that a second bid was let and that particular attention and priority were assigned to the safety and durability of the apparatus, again, with specific attention paid to the number of crossmembers. In spite of the high priority assigned the number of crossmembers, you failed to appropriately alert the necessary parties when you became aware that there were serious concerns from your division with respect to whether the specifications were being met in this regard. Despite your assertions that you were unaware of serious concerns regarding whether the specifications were being met, there exist a number of emails which indicate otherwise. You had an opportunity to forward such concerns at the time of the first bid; the award of the second bid; during the construction phase; at the final

inspection of the vehicles; and well into 2006 after the first vehicle arrived in Lincoln.

- e. You knew or should have known, not later than February 2005, that the factory order detail sheets did not match the City specifications and that your head mechanic, Deputy Chief Klein, had great concern in this regard. You failed to exhibit proper leadership and management of your division when you failed to act on these concerns. Such failure in this situation, considering the safety concerns for our personnel and citizenry, your high level of responsibility as a high level manager; the high level of public scrutiny that accompanied this project at all phases, your first-hand knowledge of the trouble for the City that can come as a result of unauthorized persons signing on behalf of the City, and failing to follow the applicable procurement policies, is simply inexcusable.
3. Your actions/inactions in the fire apparatus purchase reflect discredit upon the City service and, in this matter, were a direct hindrance to the effective performance of the City's appropriate governmental functions and constitute good cause for disciplinary action against an employee in the lofty position of Assistant Chief of Support Services.
4. Your actions/inactions in the fire apparatus purchase were unbecoming of an incumbent in the position of Assistant Chief of Support Services.
5. Your actions/inactions in the fire apparatus purchase were so egregiously inappropriate, given the totality of the circumstances, that such conduct was either a willful circumvention and disrespect for the applicable policies and ordinance charter provisions, or are stark evidence of incompetence on your part to follow such policies and ordinance charter provisions.

For the reasons enumerated above, I find that the appropriate level of discipline for such a gross failure in terms of your actions/inactions relating to the fire apparatus purchase is termination. Any lesser discipline would depreciate the seriousness of your conduct and would undervalue the importance of City managers leading in accordance with the City's policies, particularly when it comes to projects involving the expenditure of public funds and projects so directly impacting the safety of our personnel and citizenry. Termination is necessary or desirable for the economical or efficient conduct of the business of the City and/or for the best interest of the municipal government.

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Termination is made pursuant to sections 2.76.445 (f); (g); and (j) of the Lincoln Municipal Code. I believe that your actions/inactions as set forth above support termination under any of the above-cited provisions.

Please make the necessary arrangements with Interim Chief Wright to return all keys or other security cards or devices belonging to the City, as well as any badges, name tags, or uniforms belonging to the City. Additionally, you must promptly return any documents, tapes, discs, or media of any sort which you may have control over outside of your office, whether stored at home or elsewhere, which belong to the City of Lincoln. You must also furnish all passwords or security information necessary for the City to make use of your computer and its files for the ongoing business of the City. You are admonished that, while on the ten days of unpaid suspension, you are not authorized to take any action on behalf of the City of Lincoln, Lincoln Fire and Rescue, or Nebraska Task Force One.

Sincerely,



Coleen J. Seng,
Mayor
City of Lincoln, Nebraska

cc: James Zalewski, Attorney at Law, 134 S. 13th St., Suite 800, Lincoln, NE 68508
Dana W. Roper, City Attorney
Mark Bowen, Mayor's Chief of Staff
✓ Don W. Taute, Personnel Director

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